IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 8TH OCTOBER 2007 / 16TH ASWINA 1929

MFA.No. 765 of 2000()

OPMV.2226/1991 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOLLAM

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APPELLANT: PETITIONER IN O.P.

K.NARAYANAN,
EDAYILATHARA VEEDU,
AITHOTTUVA MURIYIL,
PADINJARE KALLADA VILLAGE,
KOLLAM.

BY ADV. SRI.M.V.THAMBAN

RESPONDENTS:

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1. GOVERNMENT OF KERALA, REP. BY THE
CHIEF SECRETARY, GOVT. SECRETARIATE
THIRUVANANTHAPURAM.

2. THE ASSISTANT ENGINEER,
GROUND WATER DEPARTMENT,
KOLLAM.

3. AUGUSTINE FERNANDEZ,
THEKKUMURIYIL PUTHEN VEEDU
KULASEKHARAPURAM,
ATHINAD VILLAGE (DRIVER)

BY GOVERNMENT PLEADER SRI.BASANT BALAJI.

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 08/10/2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.F.A.No. 765 of 2000

Dated this the 8th October, 2007.

J U D G M E N T

This appeal is filed by the claimant in O.P.(M.V.) No.2226/1991, on the file of the Motor Accidents Claims Tribunal, Kollam, complaining inadequacy of compensation awarded to him. The appellant who was a tree climber met with a motor vehicle accident on 10.5.91, and sustained injuries. He filed original petition claiming compensation against respondents.

2. Respondents 1 and 2 filed a counter contending that the accident occurred due to the negligence on the part of the appellant himself. The quantum of compensation claimed was also denied. 3rd respondent, Driver, also filed a written statement denying the negligence and also the quantum of compensation. The Tribunal found that the accident occurred due to the negligence of the driver of the jeep, and hence, the petitioner-appellant is entitled to get an amount of Rs.6200/= as compensation. Challenging that quantum of compensation, appellant has filed this appeal.

3. The finding of the Tribunal that the accident occurred due to the negligence on the part of respondents and the appellant is entitled to compensation, have become final and conclusive. The only point now arising for consideration is whether the appellant is entitled to get any additional compensation.

4. Ext.P4 wound certificate shows that the appellant had sustained a lacerated injury 4 x 0.5 x 0.5 cm. near the right eye brow, an abraded contusion 1 x 1 cm. on right cheek, Traumatic amputation of tip of left second toe and lacerated injury 1 x 0.5 x 0.5 cm. on left big toe. The Tribunal has awarded an amount of Rs.4000/= for pain and sufferings. I am of the view that the Tribunal ought to have granted at least an amount of Rs.5000/= on that count. Hence, an additional amount of Rs.1000/= is granted for pain and sufferings. The Tribunal also did not awarded any amount on account of the amputation. I am of the view that an amount of Rs.4000/= more is to be awarded on that account. So, the appellant is entitled to get an amount of Rs.5000/= more as additional compensation, which will carry interest at the rate of 6% per annum. I do not find any reason to modify the amount awarded on other counts.

In the result, the appeal is allowed in part. An award is passed allowing the appellant to recover an amount of Rs.5000/= more as additional compensation from the respondents, with 6% interest from the date of petition, till the date of realisation. The respondents are directed to deposit the above amount in favour of the appellant. On deposit, the appellant can withdraw the amount.

K.PADMANABHAN NAIR,
JUDGE

nj.

K.PADMANABHAN NAIR, J.

M.F.A.No. 765 of 2000

J U D G M E N T

Dated:8th October, 2007.